

person that is not required to deposit excise taxes by electronic funds transfer (a non-EFT depositor), the rules of this paragraph (c) apply with the following modifications:

(i) The periods for which separate deposits must be made are September 1st-10th and September 11th-15th.

(ii) The deposit required for the period beginning September 1st and the deposit required for the second semi-monthly period in August must be made by September 28. A deposit that would otherwise be due on September 28 must be made by September 27 if September 28 is a Saturday and by September 29 if September 28 is a Sunday.

(iii) The generally applicable fractions and percentage are modified to reflect the different deposit periods in accordance with the following table:

Generally applicable fractions and percentage	Modifications for non-EFT depositors
11/15 .....	10/15.
11/90 .....	10/90.
69.67 percent .....	63.33 percent.

(7) *Effective date.* This paragraph (c) is effective August 1, 1995.

[T.D. 8442, 57 FR 48177, Oct. 22, 1992, as amended by T.D. 8685, 61 FR 58005, Nov. 12, 1996; T.D. 8887, 65 FR 36327, June 8, 2000]

#### § 40.6302(c)-3 Special rules for use of Government depositaries under chapter 33.

(a) *Overview.* This section sets forth an alternative method for computing the amount of deposits of taxes imposed by chapter 33, and provides rules relating to the time for making a deposit and the amount of tax to be reported on the return of tax for each quarter by persons using the alternative method. The safe harbor rules for computing deposits of tax using the alternative method and the general rules relating to deposits are set forth in § 40.6302(c)-1 and apply unless inconsistent with the rules set forth below.

(b) *Alternative method for computing deposits—(1) In general—(i) Alternative method.* Any person required to collect and pay over any tax imposed by chapter 33 may compute the amount of that tax to be deposited on the basis of amounts considered as collected (the “alternative method”) instead of on the basis of actual collections of tax.

(ii) *Using more than one method to compute deposits.* A person may compute deposits of tax imposed by one or more sections of chapter 33 using the alternative method provided by this section and compute deposits of taxes imposed by other sections of chapter 33 on the basis of amounts actually collected using the 9-day rule of § 40.6302(c)-1(b)(6). For purposes of this paragraph (b)(1)(ii), the taxes imposed by section 4261(a) and (b) are treated as taxes imposed by the same section.

(2) *Applicability—(i) In general.* A person may use the alternative method with respect to a tax only if the person—

(A) Separately accounts for the tax in accordance with paragraph (b)(2)(ii) of this section; and

(B) Makes a return of the tax on the basis of the amount of the tax that is considered as collected.

(ii) *Separate account.* The account required under paragraph (b)(2)(i)(A) of this section (the “separate account”) must reflect for each month—

(A) All items of the tax that are included in amounts billed or tickets sold to customers during the month; and

(B) Items of adjustment (including bad debts and errors) relating to the tax for prior months within the period of limitations on credits or refunds.

(iii) *Change of method.* The method of computing deposits of tax imposed by a section of chapter 33 (as described in paragraph (b)(1)(ii) of this section) may be changed only at the beginning of a calendar quarter. Before a person changes the method used to compute the amount of tax to be deposited and reported for a calendar quarter, the person must notify the Commissioner so that proper adjustments may be made in order to properly reflect that person's collections of excise tax.

(3) *Period during which tax is considered as collected.* For purposes of this section, the tax included in amounts billed or tickets sold during a semi-monthly period (as defined in § 40.0-1(c)) is considered as collected during the first seven days of the second following semimonthly period. Thus, the tax included in amounts billed or tickets sold during the first semimonthly

period of a calendar month is considered as collected during the period of the 1st day through the 7th day of the following month; the tax included in amounts billed or tickets sold during the second semimonthly period of a calendar month is considered as collected during the period of the 6th day through the 22nd day of the following month.

(4) *When amounts are billed.* For purposes of this section, an amount is billed on the earlier of the date the amount is received or the date a bill for the amount is rendered.

(c) *Time to deposit.* Under the alternative method, the deposit of tax for any semimonthly period must be made by the third banking day after the seventh day of that semimonthly period. Thus, for example, the deposit for the semimonthly period beginning on January 1, 1993 (relating to amounts billed between December 1st and December 15, 1992) is due by January 12, 1993, three banking days after January 7, the seventh day of the semimonthly period.

(d) *Amount of deposit.* Under the alternative method, the deposit of tax for any semimonthly period must be not less than the net amount of tax that is considered as collected during that semimonthly period. The net amount of tax that is considered as collected during the semimonthly period must be either the net amount of tax reflected in the separate account for the corresponding semimonthly period of the preceding month or one-half the net amount of tax reflected in the separate account for the preceding month.

(e) *Reporting of tax.* If a tax is deposited under the alternative method for a calendar quarter, the return of tax for the quarter must report the net amount of the tax that is considered as collected during the quarter and not the amount of the tax that is actually collected during the quarter. The amount to be reported for each month is the net amount of tax reflected in the separate account for the preceding month. For example, amounts billed in December, January, and February are considered as collected during January, February, and March, and are reported as the collections of tax for January, February, and March (the first cal-

endar quarter). Thus, the net amount of tax reflected in the separate accounts for December, January, and February is the amount reported as collections for the first quarter.

(f) *Special rules for September.*—(1) *Deposits required.* In the case of alternative method taxes charged (that is, included in amounts billed or tickets sold) during the first semimonthly period in September, separate deposits are required for the taxes charged during the period September 1st–11th and the period September 12th–15th.

(2) *Time to deposit.*—(i) *In general.* The deposit required for alternative method taxes charged during the period beginning September 1st must be made by September 29. The deposit required for alternative method taxes charged during the period ending September 15th must be made at the time prescribed in paragraph (c) of this section for making deposits for the first semimonthly period in October.

(ii) *Due date on Saturday or Sunday.* A deposit that would otherwise be due on September 29 must be made by September 28 if September 29 is a Saturday and by September 30 if September 29 is a Sunday.

(3) *Amount of deposit.* The deposits of alternative method taxes required for the period September 1st–11th and the period September 12th–15th must be not less than the amount of alternative method taxes charged during the respective periods. The amount of alternative method taxes charged during these periods may be computed by—

(i) Determining the net amount of alternative method taxes reflected in the separate account for the first semimonthly period in September (or one-half of the net amount of alternative method taxes reasonably expected to be reflected in the separate account for the month of September);

(ii) Treating  $\frac{11}{15}$  of that amount as the amount of taxes charged during the period September 1st–11th; and

(iii) Treating the remainder of the amount determined under paragraph (f)(3)(i) of this section (adjusted, if that amount is based on reasonable expectations, to reflect actual taxes charged through the end of September) as the amount charged during the period September 12th–15th.

## Internal Revenue Service, Treasury

## § 40.6302(c)-3

(4) *Safe harbor rule based on look-back quarter liability.* The safe harbor rule of § 40.6302(c)-1(c)(2)(i) does not apply for the fourth calendar quarter unless—

(i) The deposit for alternative method taxes charged during the period September 1st–11th is not less than  $\frac{11}{100}$  of the net tax liability reported for alternative method taxes for the look-back quarter; and

(ii) The total deposit for alternative method taxes charged during the first semimonthly period in September is not less than  $\frac{1}{2}$  of the net tax liability reported for alternative method taxes for the look-back quarter.

(5) *Safe harbor rule based on current liability.* The safe harbor rule of § 40.6302(c)-1(c)(3)(i) does not apply for the fourth calendar quarter unless—

(i) The deposit for alternative method taxes charged during the period September 1st–11th is not less than 69.67 percent of the alternative method taxes charged during the first semimonthly period in September; and

(ii) The total deposit for alternative method taxes charged during the first semimonthly period in September is not less than 95 percent of the alternative method taxes charged during that semimonthly period.

(6) *Persons not required to use electronic funds transfer.* In the case of a person that is not required to deposit excise taxes by electronic funds transfer (a non-EFT depositor), the rules of this paragraph (f) apply with the following modifications:

(i) The taxes for which separate deposits must be made are the taxes charged during the periods September 1st–10th and September 11th–15th.

(ii) The deposit required for taxes charged during the period beginning September 1st must be made by September 28. A deposit that would otherwise be due on September 28 must be made by September 27 if September 28 is a Saturday and by September 29 if September 28 is a Sunday.

(iii) The generally applicable fractions and percentage are modified to reflect the different deposit periods in accordance with the following table:

Generally applicable fractions and percentage	Modifications for non-EFT depositors
11/15 .....	10/15.
11/90 .....	10/90.

Generally applicable fractions and percentage	Modifications for non-EFT depositors
69.67 percent .....	63.33 percent.

(7) *Effective date.* This paragraph (f) is effective August 1, 1995, for all taxes except those imposed by section 4261 or 4271. For taxes imposed by section 4261 or 4271, this paragraph (f) applies beginning January 1, 1997.

(g) *Transitional rule for first calendar quarter of 1993—(1) Applicability.* This paragraph (g) applies to a chapter 33 tax if the person—

(i) Erroneously applied the “considered collected” method provided under § 49.6302(c)-1(a)(1) of this chapter in the fourth calendar quarter of 1992 by calculating deposits of that tax on the basis of amounts billed or tickets sold during the quarter rather than on the basis of taxes considered as collected during the quarter; and

(ii) Uses the alternative method provided under this section to calculate deposits and make a return of that tax for the first quarter of 1993.

(2) *Rule—(i) Crediting of deposits.* If this paragraph (g) applies to a tax, any deposits of the tax computed on the basis of amounts billed or tickets sold during December 1992 are credited to the first calendar quarter of 1993.

(ii) *Return of tax for fourth calendar quarter of 1992.* If this paragraph (g) applies to a tax, the amount of the tax to be reported on the person’s return for the fourth calendar quarter of 1992 must be the amount of the tax included in amounts billed or tickets sold in October and November 1992.

(3) *Example.* The application of this paragraph (g) may be illustrated by the following example:

(a) *Facts.* (i) X, a corporation, has been providing air transportation subject to tax under section 4261 (a) and (b) for several years and is required to collect and pay over these taxes. X maintains a separate account in which all items of these taxes are recorded. For calendar quarters beginning before January 1, 1993, including the fourth quarter of 1992, X erroneously applied the “considered collected” method of computing deposits of these taxes by treating the tickets sold during each quarter as the collections for the quarter. For quarters beginning after December 31, 1992, X uses the alternative method provided by this section for computing deposits of these taxes.

## § 40.6302(c)–4

(ii) For the period September 1, 1992, through December 31, 1992, X's separate account reflects the following amounts of tax:

Sept. 1st–15th .....	\$4,000
Sept. 16th–30th .....	4,000
Oct. 1st–15th .....	7,000
Oct. 16th–31st .....	7,000
Nov. 1st–15th .....	5,000
Nov. 16th–30th .....	5,000
Dec. 1st–15th .....	9,000
Dec. 16th–31st .....	9,000

(iii) During the period October 1992 through January 1993, X made the following deposits:

Date	Amount
Oct. 13th .....	\$4,000
Oct. 27th .....	4,000
Nov. 12th .....	7,000
Nov. 26th .....	7,000
Dec. 10th .....	5,000
Dec. 28th .....	5,000
Jan. 12th .....	9,000
Jan. 27th .....	9,000

(iv) X credited the October deposits (relating to tickets sold in September) to the third quarter of 1992 and reported the tax included in tickets sold in September as third quarter collections on the Form 720 for the third quarter. Following the same procedure, X credited the November, December, and January deposits (relating to the October, November, and December tickets sold) to the fourth quarter.

(b) *Transitional rule.* In order to use the alternative method beginning with the first calendar quarter of 1993, X must deposit and report the amount of tax that is considered as collected in the quarter rather than the amount of tax included in tickets sold during the quarter. Under paragraph (g)(2)(i) of this section, X's January deposits (relating to the tickets sold in December) will be credited to the first quarter of 1993. X must report on the Form 720 for the fourth quarter only the \$24,000 of tax included in the October and November tickets sold. The amount of tax included in the tickets sold in December must be reported on the Form 720 for the first quarter of 1993.

(h) *Effective date.* Except as otherwise provided, this section is effective January 1, 1993, for deposits of taxes that are considered as collected after December 31, 1992. (i.e., tax with respect to amounts billed or tickets sold after November 30, 1992), and for returns of tax for quarters beginning after September 30, 1992. The provisions that apply in the case of semimonthly deposits under the considered collected method before the effective date of this

## 26 CFR Ch. I (4–1–01 Edition)

section are contained in 26 CFR § 49.6302(c)–1(a)(1) (revised as of April 1, 1992).

[T.D. 8442, 57 FR 48177, Oct. 22, 1992, as amended by T.D. 8685, 61 FR 58006, Nov. 12, 1996; 63 FR 15292, Mar. 31, 1998]

## § 40.6302(c)–4 Special rule for use of Government depositaries under section 4081.

(a) *Overview.* This section sets forth a special rule for deposits of taxes imposed by section 4081. The general rules, including the amount to deposit and safe harbors, are set forth in § 40.6302(c)–1 and apply unless inconsistent with the rules set forth below.

(b) *Time to deposit under the 14-day rule.* (1) In the case of taxes imposed by section 4081, a qualified person may make deposits of the tax for a semimonthly period by the fourteenth day following the semimonthly period if the deposit is made by electronic funds transfer (the “14-day rule”). Thus, under the 14-day rule generally, the deposit of tax for the first semimonthly period in a month is due by the 29th day of that month and the deposit of tax for the second semimonthly period in a month is due by the 14th day of the following month.

(2) If the due date under paragraph (b)(1) of this section falls on a Saturday, Sunday, or legal holiday in the District of Columbia, the due date of the deposit is the immediately preceding day which is not a Saturday, Sunday, or legal holiday in the District of Columbia.

(c) *Qualified person defined*—(1) *In general.* The term “qualified person” means—

(i) Any independent refiner (within the meaning of section 4995(b)(4) (as in effect on January 6, 1983)); or

(ii) Any person whose average daily production of crude oil for the preceding calendar quarter did not exceed 1,000 barrels.

(2) *Related groups.* In determining whether a person's production exceeds 1,000 barrels per day, the rules of section 4992(e) (as in effect on January 6, 1983) relating to allocation within related groups shall apply. Thus, for persons who are members of the same related group (within the meaning of section 4992(e)(2)) at any time during the